(Spl.-H.C.A.S.C.D., 78-e)

FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF BOMBAY AT GOA
PANAJI, GOA.
APPELLATE SIDE

DISTRICT :

WRIT PETITION NO. 353 OF 2004

Office Notes, Office Memoranda of Quorum, appearances,Court's orders or directions and Registrar's orders	Court's or Judge's orders

Mr. D. P. Bhise, advocate for the petitioners.

CORAM : A. P. LAVANDE, J.

DATE : 4th February, 2005.

P.C.

By this petition the petitioner takes exception to the Order dated 23rd March, 2004, passed by the Addl. District Judge, Margao, in Civil Misc. Application No.67/2003. By the impugned Order, the learned Judge has refused to condone the delay on the ground that the application was filed on false and fabricated grounds.

2. Mr. Bhise, learned counsel appearing for the petitioners, submits that the petitioners could be put to terms by way of costs and the impugned Order be set aside, otherwise irreparable injury would be caused since the Appeal is filed by the appellants in respect of the immovable property and in the appeal the appellants have got a good case.

3. I have considered the submissions made by the learned counsel for the petitioners. Ordinarily the courts are very liberal in condoning the delay in filing appeals and the Apex Court, has time and again reiterated that the approach of the Court in condoning the delay must be liberal and not pedantic. However this is a case in which the finding has been given by the lower Appellate Court that condonation was sought by the petitioners on false and fabricated grounds. The findings given by the lower Appellate Court are

based on material on record and, therefore, this is not a fit case in which the impugned Order deserves to be set aside in exercise of writ jurisdiction. Setting aside of the impugned Order would amount to giving a premium to the petitioners who have not stated the truth to the Appellate Court and, on the contrary, had sought condonation of delay on false and fabricated grounds, as stated by the lower Appellate Court. I am, therefore, not inclined to interfere in exercise of writ jurisdiction with the impugned Order.

In the result, therefore, I do not find any merit in this petition and the same is summarily rejected.

A. P. LAVANDE, J.

mc.